

LEGAL REGULATION OF ALTERNATIVE INVESTMENT FUNDS IN THE CZECH REPUBLIC

ABSTRACT

The purpose of my thesis is to analyze the impact of the recently adopted groundbreaking European regulation of alternative investment funds into the Czech legal environment of collective investments. The respective chapters provide an analysis of the most important aspects of regulation of alternative investment funds, which I consider as crucial for collective investment undertakings and its (even only potential) investors. In a large portion of the thesis I focus on the definition of alternative investment funds to clarify the possible modes of operation and distinguish them from their earlier regulated standard counterparts. In the first of eight chapters I introduce this topic in the historical context, which provides a brief excursion into the progress of regulation of collective investment at the European and Czech level, and further explain the reasons which led to creation of a unified regulation for collective investment business. The second chapter describes the current regulatory framework in accordance with the European regulation, based primarily on the Alternative Investment Fund Managers Directive (**AIFMD**) and its subsequent transposition into the Czech Act on Investment Companies and Investment Funds (**ICIFA**). Here I focus on relations between these two frameworks (perspective which to some extent and in various contexts transcends throughout the whole thesis), which I consider to be the key for understanding of the whole area of Czech regulation of alternative investment funds. This chapter provides clarification of the essential elements of regulation, such as modes of existence of alternative investment funds, regulation of the personae involved in activities of the fund and investment relations between entities in different countries. In the third chapter, I pay attention to specific personae involved in the activities of a Fund and the rules applied on them. I describe the legislator's requirements on quality and accountability of the personae involved in the management of the fund, but also capital requirements and the possibility of outsourcing of administrative operation. The fourth chapter elaborates on the management of fund with foreign element – meaning the rules provided by the Czech legislator for situations when a foreign entity interested

in management of a foreign fund on the Czech territory, or *vice versa*, Czech person manages a fund abroad. The fifth chapter explains the rules for marketing of an investment fund to potential investors - as a basis of any investment business entity - regulation of which often poses a frequent source of conflict in practice, especially when determining boundaries between investor protection and the business freedom. This section also includes the issue of cross-border marketing of investment funds. The sixth and seventh chapter describe specific legal forms and types of alternative investment funds, which complements the complex perspective of their function in the real world. After clarifying the regulatory system for alternative investments in seven previous chapters, the last chapter focuses on some problematic points of regulation – the unsolved questions raised criticism at the European as well as the Czech level – and disadvantages of the new legislation, including several proposals for potential remedies. Since the topic of the regulation of alternative investment funds is a comprehensive and multidisciplinary one, the aim of my thesis remains mainly to clarify the concept of regulation of alternative investment funds, summarize problematic elements reflected in the practice and propose sensible solutions for the Czech regime, thanks to which the Czech Republic could steer toward a competitive market for collective investments and become able to develop and utilize the high potential of the Czech investment environment.